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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Before the**
**Federal Communications Commission**
**Washington, D.C. 20554**

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|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Amendment of the Commission's Rules Concerning Maritime Communications | ) | PR Docket No. 92-257 |
| | ) | |
| Petition for Rule Making filed by RegioNet Wireless License, LLC | ) | RM-9664 |

To: Chief, Wireless Telecommunications Bureau

**Petition for Reconsideration or Waiver of Interim Order Regarding Suspension of Processing of Applications of Warren C. Havens**

Index



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List A B C D E

Warren C. Havens ("Havens") hereby submits a petition for reconsideration, and in addition and in the alternative, a petition for waiver (the "Petitions," and for covenience herein, together, the "Petition")[1] of the suspension of processing of certain applications that is described in paragraphs 32-34 of the "Procedural Matters" part of the above-captioned publication released by the Federal Communications Commission ("FCC") on 11-26-00 (the " 'Report' and 'Rulemaking' ") and ordered in paragraph 89 of said Report and Rulemaking (see Exhibit 2 below) (the "Suspension," further defined below) and that was published on 12-13-00 in the Federal Register (see Exhibit 3 below). This Petition is timely filed.[2]

## Background and Summary

Havens holds a number of FCC authorizations for new Automated Marine Telecommunication System ("AMTS") service for inland waterways[3] and has pending before the FCC various applications for new AMTS service authorizations. A small percentage of these pending applications-- those listed in Exhibit 1 below--are subject to, or facially subject to, the Suspension (the "Applications"). For reasons given below, it is in the public interest for the FCC to lift the Suspension and process the Applications, whether

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[1] These two independent Petitions, each to the FCC, are presented here in one document to make review by the FCC more efficient, since some facts and arguments in the two are related.

[2] This Petition is timely filed pursuant to Sections 1.106(f) and 1.4(b) of the Commission's rules, in that the publication that included said Report and Rulemaking and the above-referenced "Procedural Matters" was published (summarized) in the Federal Register on December 8, 2000 (see Exhibit 3 below). See 47 C.F.R. § 1.106, 1.4(b) ("petition for reconsideration . . . shall be filed within 30 days from the date of public notice" and "[f]or documents in notice and comment rulemaking proceedings . . . the date of publication in the Federal Register" constitutes public notice for purposes of computing time); 65 Fed. Reg. 76966 (Dec. 8, 2000).

[3] AMTS authorizations to serve Lake Meade, Great Salt Lake, Carson River, Verde River, and Salt River. Havens also holds many VPC, LMS, and 220-222 MHz licenses acquired at FCC auctions: see Exhibit 5, last below.

by grant of this Petition as a Petition for Reconsideration or a Petition for Waiver of this interim Suspension order.[4]

In the Report and Rulemaking, Havens understand the FCC to state the reasons for the Suspension as follows (items underlined, in brackets, and in bold [with bracketed designators] added; original footnotes removed):

> 76. . . . . We believe **[A] that after the public has been placed on notice** of our proposed rule changes, continuing to accept new applications under the current rules would impair the objectives of this proceeding, . . . . We also note that this is **[B] consistent with the approach we have taken in other existing services where we have proposed** to adopt **geographic area licensing and auction** rules.[5] .
>
> [This rationale appears to apply also to the below paragraphs 77 and 78 as further reflected therein.]
>
> * * * *
>
> 78. With respect to applications for such frequencies that were filed prior to the release date of this *Fourth Report and Order and Third Further Notice of Proposed Rule Making*, and which are pending, we will process such applications provided that, as of the deadline stated above, they are not mutually exclusive with any other applications and the relevant period for filing competing applications has expired. **[C] This approach gives the appropriate consideration to those applicants who filed applications prior to our proposed changes** and whose applications are not subject to competing applications. [The "Suspension":] Pending applications not meeting the above criteria will be held in abeyance until the conclusion of this proceeding, whereupon we will determine, **[D] in accordance with such new rules as are adopted, whether to process or return any such pending applications.** [Herein, "Suspension" and "Suspended" refer to the condition described in the last sentence above.]

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[4] Havens understands that there are AMTS applications of another party, Regionet, that are also subject to the Suspension ("Regionet Applications"). Havens can not at this time comment on whether any of such other party's applications meet the conditions described below which Havens believes present a compelling case for waiving the Suspension for the Havens Applications including because the Regionet Applications and some of the Havens Applications are involved in MX applications and Petitions to Deny involving Havens and Regionet.

[5] *See, e.g., Second Further Notice*, 12 FCC Rcd at 17015-16; Licensing of General Category Frequencies in the 806-809.750/851.750 MHz Bands, *Order*, 10 FCC Rcd 13190, 13190 (WTB 1995).

Havens understands per the above highlights (and the full text of the above section: see Exhibit 2 below), that:

A. (See '[A]' above) The FCC placed the public on notice via the release of the Report and Rulemaking on 11-16-00, and after that notice date (the "Notice Date") AMTS applications (with certain exceptions) would not be accepted. The FCC considers it appropriate to notice a new rule prior to or concurrent with effecting it to be (". . . after . . . notice . . ."). 

B. (See '[B]' above) the Suspension arrangement is meant to protect the goals of the geographic area licensing via auction proposed in the Rulemaking (or any other licensing scheme adopted via the Rulemaking)[6] and such arrangement was made in other services prior to adoption of such auction licensing scheme. (Elsewhere in the Rulemaking, the FCC referred primarily to the VPC service in regard to a radio service similar to AMTS that was converted to licensing as proposed in the Rulemaking for AMTS.)

C. (See '[C]' above) The FCC, in making the Suspension, gave consideration to Applicants whose applications were off Public Notice prior to the Notice Date (the FCC will process such applications) ("Non-Suspended Category"), but effected the Suspension of (the FCC will not processing, but hold in abeyance, etc.) all applications not off Public Notice by the Freeze Date.

D. (See '[D]' above) Once the new licensing rules subject of the Rulemaking are adopted, the applications in Suspension will be returned if doing so, verses processing them,

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[6] However, the Rulemaking also considered other licensing arrangments, including "Guard Band Manager" arrangements. Havens believes arrangements other than auctions should be seriously explored and will be presenting these in Comments to the Rulemaking.

would be more in accord with the goals of such new rules. Havens understands that, if the proposed geographic licensing via auction is adopted as part of such new rules, that it is probable that the FCC would find it most in accord with their purposes to return such applications, absent a compelling case presented by an interested party as to why such applications, or some of them, should not be subject to such Suspension (i.e., processed along with applications not subject to the Suspension).[7]

Havens does not disagree with suspension of acceptance of applications for new AMTS as ordered by the FCC, reflected above, or with the other general principles reflected by the FCC in the above (and in the full text of the above: see Exhibit 2 below). However, below Havens argues below why lifting the Suspension of Havens's Applications is not inconsistent with these principles and is more in the public interest than keeping them in such Suspension.

A summary of this Petition is provided by the detailed section headings provided in the Index above.

*Petition for Reconsideration*

Proposed Removal of the Suspension for a Class of Applications

Havens proposes that all AMTS applications that are currently in Suspension that properly appeared on Public Notice, and were thus found acceptable for filing (which includes all the Applications),[8] before the Notice Date[9] should be processed as follows:

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[7] This Petition is not a petition of this nature, since the FCC has not yet adopted such new licensing rules and thus it cannot yet be determined whether is it most in accord to return or process the applications in Suspension.

[8] See previous footnote as to why Havens may not herein comment on other, non-Havens applications subject to the Suspension.

1) First, they should be reviewed as to whether they are facially sufficient or deficient under the rules for applications for AMTS licenses (see the rules and the two "Discussions" in Exhibit 4 below: to be sufficient, an application must contain the engineering and other showings required to satisfy the application rules).
2) Those that are deficient should be forthwith dismissed and returned.
3) Those that are sufficient should be placed in Non-Suspended Category (see above) and processed with the other applications in that category.[10]

The Suspension Should Not be Substantially Retroactive to its Public Notice; Legitimate AMTS Applications Are Not Comparable to VPC Applications and Require Much More Time and Expense to Prepare Warranting Shortening of the Retroactive Period

The principle that the public should have advance (at least same-day) notice of a new rule is properly noted by the FCC in the above (see item '[A]'). However, the public did not have prior notice of the Suspension[11]: an applicant could have first obtained a copy of the Report and Rulemaking noticing the Suspension on its release date (the "Notice

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[9] Any suspension of acceptance of new applications will necessarily result in potential truncation of the Public Notice period, not with regard to filing of Petitions to Deny, but with regard to filing MX applications. This is due to the potential for MX applications filed in a series of partially overlapping applications: For example, Party A files for River A (Application A), then in Application A's Public Notice period, Party B files for a River B (Application B), MX'ing Application A, and so for regarding Party C/ River C/Application C (Mx'ing B), then Party D/River D/Application (D Mx'ing C), etc. Thus, as with the subject Suspension, suspending all applications not off public notice prior to the notice date of the suspension does not solve this problem: any suspension will potentially cause a truncation of some applications. Thus, the best solution is to pick an effective date for the suspension that is reasonble considering the other legitimate concerns involved.

[10] In this regard, Havens believes that no MX situation (as discussed in paragraph 78) would exist with respect to any of the Applications and they would thus all fall under this Non-Suspended Category.

[11] There were indications years ago by the FCC in a past report and rulemaking of a potential future suspension such as the Suspension; however, this was not effective notice of the actual Suspension.

Date" [same as the "Freeze Date" defined above]); however, the Suspension extended back in time to all applications that were not submitted sufficiently in advance of the Notice Date to have been processed by Mellon Bank, found acceptable for filing by the FCC, and placed on Public Notice for the 30-day Public Notice period (in the aggregate, approximately 40 days). This is a very long period for an applicant to be laboring and expending resources under one rule only to then run afoul of a new rule that scuttles such labor and wastes such expense.

As noted above, in the Rulemaking, the FCC principally referred to the VPC service as an example of a service that was converted from single-site licensing on a first-come, first-serve basis (which is also the current AMTS licensing basis), to geographical licensing via auction, such as proposed in the Rulemaking for AMTS. The FCC has also noted that there was a licensing freeze in VPC similar to the Suspension at issue here. However, the Suspension in AMTS at issue here imposes a much greater burden on the applicant than any similar suspension in pre-auction VPC.

The main differences accounting for this are: unlike pre-auction VPC single-site coastal licensing, AMTS for inland waterways (all the Applications involve inland waterways, with one exception noted below) require under the rules:

1) Multiple sites.[12]
2) Under rule §80.475(a) (see Exhibit 4 below), a showing (see Exhibit 4) of continual coverage of certain percentages of a navigable waterway. This necessarily (see "Discussion" of this rule in Exhibit 4) involves determinations and showings of: (a) the definition of the subject navigable waterway (not always an entire river): its upstream

[12] With exceptions found for certain islands.

point (where navigable uses in fact commence) and where it ends downstream; (b) the waterway's navigability (navigable uses in fact) per governmental entities in charge of such waterway (there is always a governmental entity in charge); and, based on 'a' and 'b', (c) a sound engineering showing that the proposed sites provide such continual coverage.

3) Under rule §80.215(h) (see Exhibit 4 below), an engineering study or showing to demonstrate compliance with rules to protect certain TV stations from interference (see Exhibit 4), which necessarily (see "Discussion" of this rule in Exhibit 4) involves a demonstration (as in all the Havens Applications at issue here) as called for in this rule. Also unlike VPC, while not required under the AMTS rules, any *sincere* application submitted in recent (after the US coastal areas and major inland barge-traffic corridors were licensed)-- certainly all of the Havens Applications at issue here-- due to its pioneering nature, had to involve:

4) Lengthy research regarding the business case for the proposed AMTS system and service: Pre-auction VPC involved the well-established business of marine coastal communications (there was virtually no inland use of VPC channels) and well established supply of systems and end-user equipment: In AMTS, however, Havens pioneered inland AMTS for waterways other than principal commercial-barge corridors along the Mississippi and a few associated major tributaries. After first spending most of a year researching inland AMTS (regulatory, technical, market demand, equipment supply, interoperability with his other planned radio services,[13] and other aspects) each

[13] Those based on his other licenses. See Exhibit __ , last below. See also Havens Request for Waiver, dated 11- 1-00, of Section 80.49 (a) (2) regarding AMTS stations WHV211, WHV257, WHV287, WHV523, and WHV653, describing Havens planned coordination of public services with his AMTS, LMS, 220 MHz, and VPC licenses.

one of his AMTS applications for a particular navigable waterway involved *months* of preparation time at an average cost into the tens of thousand of dollars (combined direct professional and in-house costs), and additional allocated indirect costs (overhead of period involved, percentage of start-up research and travel, etc.).

Combined, these four differences between pre-auction VPC applications and Havens's AMTS Applications at issue here amount to a difference in preparation cost of months in time and into the tens of thousands of dollars per application. Such higher AMTS costs are also at a much higher risk than for such VPC applications, due to the described pioneering nature of inland AMTS. Accordingly, to impose the same suspension on the Applications as was imposed on VPC applications places a far greater and unfair burden on the Applications and any other legitimate applications than placed on such applicants for such VPC when a suspension on VPC applications was imposed.[14]

*Petition for Waiver*
*(In addition and in the alternative to Petition for Reconsideration)*

The Applications, if Processed and Granted,
Will Not Substantially Deplete Spectrum for New Licensing;
However, They are Essential to Havens's Planned Public Services
That Pioneer Important New Technologies and Applications

Grant of the Petition for Waiver is in the public interest and deying it would run counter to the purposes of the Suspension for reasons noted below.

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[14] It would be possible to prepare AMTS applications, even for lengthly waterways needing many sites to meet the required continuous coverage, very quickly and inexpensively (much closer to the speed and cost of a single-site VPC application to extend the pre-auction VPC service that existed), if the applicant did not intend to and did not in fact comply with the above-described rule requirements or conduct the above-described due diligence that any sincere and grantable AMTS application for inland waterway service required. For reasons noted above--involvement in restricted proceedings--Havens cannot further comment in this regard with respect to other, non-Havens, AMTS applications currently subject to the Suspension.

See items '[B]' and '[D]' in the above quote concerning the Suspension, and following such quotes, the discussion on these two items: Havens understands that the FCC has as a goal of the Suspension to preserve AMTS spectrum for the new licensing scheme proposed in the Rulemaking (geographic licenses via auctions, or possibly other arrangements). In the case of the Applications, there is only a nominal amount of spectrum involved in relation to the totality of AMTS spectrum nationwide: measured on the basis of MHz-miles involved (lengths of waterways involved in the Applications multiplied by the 2 MHz of AMTS), it is estimated at less than one-sixth of one percent, and measured on the basis of MHz-Pops involved (population within the Applications' proposed radio-coverage service areas multiplied by the 2 MHz of AMTS), it is estimated at less than one-eight of one percent.[15] Further, as can be seen on the Applications, the territory involved in the Applications is for the most part fairly remote areas.

On the other hand, these Applications represent essential components to Havens planned public services utilizing AMTS: In brief, they are for areas that are needed (along with at least some of Havens's other, non-Suspended AMTS applications) to obtain a "critical mass" of AMTS service in the particular areas involved: Central Texas, Central-

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[15] The MHz-Pop estimations are easy to replicate using any Atlas with population counts of counties cross referenced with the coverage maps in the Applications. The MHz-Miles are based on measuring and adding up the estimated lenghts of (i) all US States' Territorial Sea coastlines, and the US-side coastlines of the Great Lakes and St. Laurence Seaway, (ii) the top 20 major US inland rivers, assuming 60% of their lengths to have substantial naviable uses (and using such 60% totals), and (iii) a conservateive estimate (800 miles) of the average per State of other waterways with substantial naviable uses (Havens staff has researched inland waterways, accumating scores of books and publications thereupon, and from these found that there are roughly several times the lenght in such waterways as the distance accross the state lengthwise and crosswise, and this is more than 800 miles per State on average. This can be observed by review of reasonably detailed road maps.). Note: In these estimations, Havens excludes those portions of the waterway mileage and population involved in his Application for the Highland Lakes (see Exhibit 1 below) that are already involved in his application for the Lower Colorado River, since the latter application is not subject to the Suspension.

Sierra-Mountain California, and New England. Havens needs the proposed Kings and Owens River AMTS authorizations to form a critical mass along with his granted license for the Carson River and his pending application for the Truckee River; the proposed Highland Lakes authorization to form a critical mass along with his pending applications for the Lower Colorado River, the San Antonio River, and several Texas rivers to the North; and the proposed Mt. Desert Island-Acadia authorization to for the special purposes noted in that Application: both providing services to the substantial unique boating centered around this resort island/ National Park, and launching in the National Parks, with their cooperation, forms of intelligent transportation services, using 217-222 MHz along with LMS.[16]

Also, see Exhibit 5, last below: Havens and companies he founded and have major interest in have substantial license holdings in all areas involved in the Applications, including in all such areas, 220 MHz licenses and LMS licenses. See Havens Request for Waiver, dated 11- 1-00, of Section 80.49: Havens plans to develop substantially integrating systems and public services utilizing his LMS, AMTS, 220 MHz, and VPC

[16] In the last year, Havens has made presentations, favorably received, at meetings and in writing, to persons in charge of wireless communications at the National Parks, including Acadia, with regard to use of his LMS licenses, coupled with AMTS and 220 MHz licenses as he has or may acquire, for "Intelligent Transporation System" applications. At Acadia, this would involve visitors and Park staff using marine and land transportation. Acadia is the first National Park implementing an ITS program. Havens has offered, in writng, to the US Department of Interior, Acadia National Park, and their ITS consultants, use of substantial amounts of his radio licenses, including LMS, AMTS, and 220 MHz, on a no-cost or nominal-cost basis, for developing critical radio systems to serve internal needs of personnel at National Parks, and to serve important visitor needs. In sum, the most-visited National Parks have large amounts of traffic congestion in peak-visitation season, and need strong ITS programs for increased safety, pollution abatement, and quality visitor experiences. LMS has been allocated by the FCC for ITS functions, and 217-222 MHz will allow for needed augmentation of the 900 MHz-range LMS frequencies in rural areas such as National Parks.

licenses (potentially augmented by joint ventures with other license holders in these radio services).

In addition, processing and grant of these Applications will make Havens and his associated companies (see Exhibit 5, last below) more interested in bidding for AMTS in a future AMTS auction, or participation in any other new licensing scheme the FCC adopts pursuant to the Rulemaking. This will add competition which is in the public interest.

Further, Havens plans to use AMTS and 220 MHz licenses (217-222 MHz) for new advanced technology and public-service applications involving integrated dual-frequency-mode wide-area transportation infrastructure radio services: serving rural and urban areas and the transport of persons and goods over land, water, rail, etc. Havens has documented these plans in written presentations to leaders and major meetings of ITS America, United Telecom Council, ENTELEC, US Departments of Interior and Transportation, Nortel (and other major equipment vendors), etc. The Applications subject of this Petition are needed for achieving the above-noted critical mass in AMTS to progress with these plans. The lower 200-kHz-range frequencies of AMTS (and those of 220-222 MHz) are ideal to combine with the 900 MHz of LMS for these applications: In the United States, far more than in Europe and the Far East, we have need for such dual-frequency-mode wide area mobile systems to cover both the dense urban areas (with the higher frequencies) and our greater expanses of suburban and rural areas (with the lower frequencies). Havens can present to the FCC summaries of these written plans if the FCC so desires for purposes of considering this Waiver Petition.

Two Havens Station Applications Should not
Fall Under the Suspension, per FCC Action

See Exhibit 1 below, Table B: First, even if the FCC does not accept the below facts and arguments, the below-described two station applications should be treated the same as the above-described Applications (those listed in Table B of Exhibit 1) since these two have all of the characteristics described above for those Applications. However, these two station applications, for other, threshold reasons, described next below, should not be subject to the Suspension.

The Keota station application was submitted by Havens to the FCC along with and at the same time as the other stations that together (along with the Keota station) composed the complete Havens application to serve the MCKARNS. However, the Keota station application was misplaced by the FCC; otherwise, it would have been off Public Notice with these other Havens MCKARMS station applications before the Notice Date and thus not nominally under the Suspension. These others were all off Public Notice on 11-9-00, before the release date of the Report and Rulemaking, and thus not under the Suspension.

The Boulder station application does not fall under the Suspension under paragraph 78[17]: While it was not off Public Notice before the release date of the Report and Rulemaking, it falls under paragraph 77 since it "propose[s] neither to expand . . .AMTS system's [ ] service area or to obtain additional spectrum": 1) it proposes no new spectrum but a B-frequency-block station in the middle of other B-block stations on each side[18]

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[17] It thus (if the FCC accepts that it caused the described delay) should not be subject of the Petition for Reconsideration or Petition for Waiver submitted in this filing. However, it is included here in order to address efficiently in one document to the FCC all of Havens AMTS applications that were not off Public Notice before the release date of the Report and Rulemaking.

[18] In fact, the cover letter to the FCC accompanying the submission of this station noted that Havens would withdraw two A-block stations that Havens submitted (that were months previously off Public Notice) if this Boulder-station was granted. (These two A-block station applications were submitted to fill a small gap in proposed service coverage [a permissible gap per the FCC "Great Lakes Order," but nevertheless a gap Havens sought to fill for more effective service]: A-block frequencies were required in order to protect a TV station in the vicinity, as

previously submitted by Havens for AMTS authorization to serve the South Platte River (such other station applications were off Public Notice months before the release date of the Report and Rulemaking), and 2) this Boulder station application is in the middle of the subject South Platte River AMTS application and does not extend its service area along this River.[19]

## Conclusion

For all the above reasons, the Petition should be granted and would be in the public interest: (i) *legitimate* AMTS applications take months to prepare (unlike pre-auction VPC applications) and should not be Suspended if they reached placement on Public Notice before the Suspension notice; (ii) grant of the Petition--and assuming the Applications are thereafter granted-- will cause only a negligible reduction in the total MHz-Pops or any other measure of total AMTS spectrum to be subject to auctions or other new licensing arrangements pursuant to the Rulemaking; yet (iii) such grants will provide critical mass needed for launch of important new technologies and applications using AMTS alone and in conjunction with LMS for unique new services to waterway and highway users as described above.

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explained to the FCC when submitting these. However, upon receipt from the FCC of permission to use B-block frequencies at the subject Boulder site (which permission was required under FCC rules in the opinion of Havens professional counsel), Havens then submitted the Boulder site and, proposed to withdraw the two A-block station applications upon FCC grant of this B-block Boulder station along with the other B-block stations Havens proposed in the complete South Platte River AMTS application. In addition, grant of this B-block Boulder station application, and the resultant withdrawal noted above of the two A-block station applications, will resolve the MX situation with respect to A-block applications in this region.

[19] The Boulder site is ideally suited to cover the South Platte River as it emerges from the Rocky Mountains and flows out into the plains. While it does cover somewhat further out from the sides of this river than provided for by the previously submitted (and off Public Notice) station applications by Havens for this river, it does not cover a greater lenght of the South Platte River, and coverage of such lenght is the measure of "service area" under FCC rule § 80.475(a).

For all of the above reasons, Warren C. Havens requests that the FCC take the above-described actions.

Respectfully submitted,

Warren C. Havens

Date: January 8, 2001

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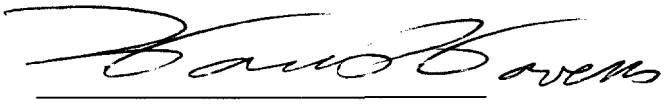
Reply - 41 Reg. Apps

Declaration

I, Warren C. Havens, hereby declare, under penalty of perjury, that the foregoing Petition for Reconsideration or Waiver including the Exhibits thereto were prepared pursuant to my direction and control and that all the factual statements and representations contained therein are true and correct.



Warren C. Havens

January 8, 2001

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Via Hogan & Hartson : FCC Filing

Exhibit 1

Table A
AMTS applications of Warren C. Havens subject to the Suspension
(the "Applications"):

| | Site Name | Freq-uency Block | Defined Navigable Waterway | Public Notice # | File # | Date on PN | Date off PN |
|---|---|---|---|---|---|---|---|
| 1 | June Lake, CA | B | Owens River | 2119 | 853667 | 11/14/00 | 12/14/00 |
| 2 | Independence, CA | B | Owens River | 2119 | 853668 | 11/14/00 | 12/14/00 |
| 3 | Independence, CA | B | Kings River | 2119 | 853669 | 11/14/00 | 12/14/00 |
| 4 | Sanger, CA | B | Kings River | 2119 | 853670 | 11/14/00 | 12/14/00 |
| 5 | Hume, CA | B | Kings River | 2119 | 853671 | 11/14/00 | 12/14/00 |
| 6 | Sanger, CA | B | Kings River | 2119 | 853672 | 11/14/00 | 12/14/00 |
| 7 | Riverdale, CA | B | Kings River | 2119 | 853673 | 11/14/00 | 12/14/00 |
| 8 | Orange Grove, CA | B | Kings River | 2119 | 853674 | 11/14/00 | 12/14/00 |
| 0 | Llano, TX | B | Highland Lakes | 2119 | 853675 | 11/14/00 | 12/14/00 |
| 10 | Spicewood, TX | B | Highland Lakes | 2119 | 853676 | 11/14/00 | 12/14/00 |
| 11 | Bar Harbor, ME | A | Mt. Desert Island (Acadia) | 2119 | 853677 | 11/14/00 | 12/14/00 |

Notes to Table A: Some of the above applications listed above were for some time after they were received at Mellon Bank in Pittsburgh misplaced by the FCC which delayed placing them on Public Notice.

Table B
AMTS applications of Warren C. Havens that should not be Suspended,
but that were not off Public Notice prior to the Notice Date
(the release date of the Report and Rulemaking)
(the "Table-B Applications").

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| *1* | *Keota, OK* | *A* | *MCKARNS* | *2117* | *853611* | *10/31/00* | *11/30/00* |
| *2* | *Boulder, CO* | *B* | *S. Platte* | *2117* | *853615* | *10/31/00* | *11/30/00* |

Notes to Table B: As further explained in the Petition text, above:

1. The Keota station application was submitted along with the other MCKARMS station applications but was misplaced by the FCC; otherwise, it would have been off Public Notice with the other Havens MCKARMS station applications before the Notice Date and thus not nominally under the Suspension.
2. The Boulder station application does not fall under the Suspension but falls under paragraph 77 in the Rulemaking: while it was not off Public Notice before the Notice Date of the Suspension, it does "propose[s] neither to expand . . .AMTS system's [] service area or to obtain additional spectrum.

Exhibit 2

Excerpts relevant to the Suspension of the Applications from the

Fourth Report and Order and Third Further Notice of Proposed Rule Making
released November 16, 2000

(Italics and footnotes in original. Underlining added to indicate language most specific to the Suspension.)

## V. PROCEDURAL MATTERS

### A. Suspension of Acceptance and Processing of Applications

76. In light of the fundamental changes we have proposed for our AMTS and high seas public coast station licensing rules, we are suspending acceptance of applications for new licenses, applications to modify existing licenses, and amendments to applications for new licenses or modifications, for AMTS (217-220 MHz)[20] and HF radiotelephone (4-27.5 MHz)[21] frequencies as of the release date of this *Fourth Report and Order and Third Further Notice of Proposed Rule Making*, except as provided in the following paragraph.[22] Any such applications received on or after that date will be returned as unacceptable for filing. We believe that after the public has been placed on notice of our proposed rule changes, continuing to accept new applications under the current rules would impair the objectives of this proceeding, particularly in light of our decision today to eliminate the channel loading requirements for high seas radiotelephone (HF only) spectrum. We also note that this is consistent with the approach we have taken in other existing services where we have proposed to adopt geographic area licensing and auction rules.[23] We therefore find that this temporary measure is in the public interest.

77. We will continue to accept and process applications for such frequencies involving renewals, transfers, assignments, and modifications, and amendments to such applications, that propose neither to expand a station's (or AMTS system's) service area or to obtain additional spectrum.[24] This exception should permit modifications that can improve the efficiency of incumbent

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20 47 C.F.R. § 80.385(a)(2).

21 47 C.F.R. § 80.371(b).

22 That is, we suspend the acceptance and processing of applications only for that spectrum for which we propose to hold an auction.

23 *See, e.g., Second Further Notice*, 12 FCC Rcd at 17015-16; Licensing of General Category Frequencies in the 806-809.750/851.750 MHz Bands, *Order*, 10 FCC Rcd 13190, 13190 (WTB 1995).

24 The following modifications will not be deemed to expand a station's or system's service area: a modification that expands an AMTS station's or system's contour over water only (disregarding uninhabited islands), and a modification to relocate a radiotelephone station within the same licensing region.

operations without affecting the effective and orderly resolution of the issues in this proceeding.

78. With respect to applications for such frequencies that were filed prior to the release date of this *Fourth Report and Order and Third Further Notice of Proposed Rule Making*, and which are pending, we will process such applications provided that, as of the deadline stated above, they are not mutually exclusive with any other applications[25] and the relevant period for filing competing applications has expired. This approach gives the appropriate consideration to those applicants who filed applications prior to our proposed changes and whose applications are not subject to competing applications. Pending applications not meeting the above criteria will be held in abeyance until the conclusion of this proceeding, whereupon we will determine, in accordance with such new rules as are adopted, whether to process or return any such pending applications.

79. These decisions are procedural in nature and therefore not subject to the notice and comment and effective date requirements of the Administrative Procedure Act.[26] Moreover, there is good cause for proceeding in this manner; to do otherwise would be impractical, unnecessary, and contrary to the public interest because compliance would undercut the purposes of these interim measures.[27]

* * * *

84. . . . .

**F. Ordering Clauses**

85. Authority for the issuance of this *Fourth Report and Order and Third Further Notice of Proposed Rule Making* is contained in Sections 4(i), 4(j), 7(a), 302, 303(b), 303(f), 303(g), 303(r), 307(e), 332(a), and 332(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 157(a), 302, 303(b), 303(f), 303(g), 303(r), 307(e), 332(a), and 332(c).

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[25] We note that AMTS stations are licensed only as part of a system, and that ordinarily each station is the subject of a separate application. For puposes of this suspension of processing of pending applications, we will treat as mutually exclusive AMTS applications that are not themselves mutually exclusive with any other applications, but which are part of a proposed system that includes applications that are mutually exclusive as of the deadline stated above, if the non-mutually exclusive applications are not otherwise grantable. That is, we will suspend processing of all of the applications for the proposed system if the non-mutually exclusive applications cannot be granted without the suspended mutually exclusive applications because the partial system would not provide the required coverage, *see* 47 C.F.R. § 80.475(a), or would otherwise not satisfy the technical requirements in our AMTS rules. Only if the non-mutually exclusive applications are grantable without granting the mutually exclusive applications will we process the non-mutually exclusive applications, provided that the relevant period for filing competing applications has expired.

[26] *See* 5 U.S.C. § 553(b)(A), (d); *Kessler v. FCC*, 326 F.2d 673 (D.C. Cir. 1963).

[27] *See* 5 U.S.C. § 553(b)(B), (d)(3).

86. Accordingly, IT IS ORDERED that Parts 80 and 95 of the Commission's Rules, 47 C.F.R. Parts 80 and 95, ARE AMENDED as specified in Appendix C.

87. IT IS FURTHER ORDERED that, except for the temporary suspension set forth in paragraphs 88 to 89, this *Fourth Report and Order and Third Further Notice of Proposed Rule Making* will be effective 30 days after publication in the Federal Register.

88. IT IS FURTHER ORDERED that, effective November 16, 2000, no new applications to use the frequencies listed in Sections 80.371(b), and 80.385(a)(2) of the Commission's Rules, 47 C.F.R. §§ 80.371(b), and 80.385(a)(2), will be accepted for filing, except applications that do not propose to (1) expand a station's or system's service area, or (2) obtain additional spectrum, until the conclusion of this proceeding.

89. IT IS FURTHER ORDERED that pending applications to use the frequencies listed in Sections 80.371(b), and 80.385(a)(2) of the Commission's Rules, 47 C.F.R. §§ 80.371(b), and 80.385(a)(2), WILL BE PROCESSED provided that (1) they are not mutually exclusive with other applications as of November 16, 2000, nor, with respect to the frequencies listed in Section 80.385(a)(2), part of a proposed system that does not meet the requirements of our rules without reference to any applications that are mutually exclusive with other applications as of November 16, 2000; and (2) the relevant period for filing competing applications has expired as of that date. Pending applications to use those frequencies not meeting the above criteria WILL BE HELD IN ABEYANCE until the conclusion of this proceeding. We will determine later, in accordance with such new rules as are adopted, whether to process or return any such pending applications.

90. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this *Fourth Report and Order and Third Further Notice of Proposed Rule Making*, including the Final and Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

Exhibit 3

Excerpts from below-captioned page of the Federal Register relevant to the Suspension of the Applications. (Underlining added to point out the most relevant item.)



* * * *

**Regulatory Flexibility Analysis**

10. As required by the RFA, the Commission has prepared this present IRFA of the possible significant economic impact on small entities of the policies and rules proposed in the Third Further Notice of Proposed Rule Making (3rd FNPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the 3rd FNPRM provided in the item. The Commission will send a copy of the 3rd FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 603(a). In addition, the 3rd FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**. See id.

*A. Need for, and Objectives of, the Proposed Rules*

11. Our objective is to determine whether it is in the public interest, convenience, and necessity to simplify our licensing process for AMTS and high seas public coast stations. These proposals include (1) converting licensing of AMTS coast station spectrum from site-based to geographic area licensing, (2) simplifying the AMTS licensing procedures and rules, (3) increasing AMTS and high seas public coast station licensee flexibility to provide service over a wide area, and (4) employing the Commission's Part 1 standardized competitive bidding procedures to resolve mutually exclusive applications. In addition, we temporarily suspend the acceptance and

processing of certain AMTS and high seas public coast station applications because we believe that after the public
has been placed on notice of our proposed rule changes, continuing to accept new applications under the current rules would impair the objectives of this proceeding. These proposed rules and actions should increase the number and types of communications services available to the maritime community.

*B. Legal Basis:*

* * * *

Exhibit 4 (2 pages)

47 CFR Ch. I (10–1–98 Edition)
**§ 80.215**
[Underlining and bolding added.]

* * * *

**(h)** Coast stations in an AMTS may radiate as follows, subject to the condition that no harmful interference will be caused to television reception ex-cept that TV services authorized subsequent to the filing of the AMTS station application will not be protected.
* * * *

(2) Coast stations located less than 169 kilometers (105 miles) from a Chan-nel 13 TV station, or less than 129 kilo-meters (80 miles) from a channel 10 station or when using a transmitting an-tenna height above ground greater than 61 meters (200 feet), must submit a plan to limit interference to TV re-ception. The plan must include:
(i) A description of the interference contour with identification of the method used to determine this contour; and
(ii) A statement concerning the number of residences within the inter-ference contour. The interference con-tour includes only areas inside the TV grade B contour with the latter deter-mined assuming maximum permissible TV antenna height and power for broadcast stations and the actual facility parameters for translators and low power TV stations. See part 73, subpart E of this chapter for further information on TV grade B contour determination.

**(3)** When located as described in paragraph (h)(2) of this section, the coast station (or stations affecting the same TV Grade B contour) will be authorized if the applicant's plan has limited the interference contour(s) to fewer than 100 residences **or if the applicant:**
**(i) Shows that the proposed site is the only suitable location;**
(ii) Develops a plan to control any in-terference caused to TV reception within the Grade B contour from its operations; and
(iii) Agrees to make such adjust-ments in the TV receivers affected as may be necessary to eliminate inter-ference caused by its operations.
* * * *

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Discussion: There are two engineering studies described under this in the above rules: (a) the plan under subsection '(2)' is always required, and (b) in specified cases, the showing under subsection '(3)(i)' is also required.

(The FCC confirmed the need for these in the Rulemaking including in paragraph 47 [". . . we tentative conclude that there should be no modification to the engineering study requirement. . . ."], and paragraph 49 ["We find that a survey plan is not a reasonable substitute for an engineering study because our rules require a prospective showing . . . . "].)

**§ 80.475 Scope of service of the Automated Maritime Telecommunications System (AMTS).**
[Underlining and items in brackets added.]

(a) AMTS applicants proposing to serve inland waterways must show how the proposed system will provide con-tinuity of service along more than 60% of each of one or more navigable inland waterways. Inland waterways less than 240 kilometers (150 miles) long must be served in their entirety. AMTS appli-cants proposing to serve portions of the Atlantic, Pacific or Gulf of Mexico coastline must define a substantial navigational area and show how the proposed system will provide continuity of service for it. * * * *
(1) Applicants proposing to locate a coast station transmitter within 169 kilometers (105 miles) of a channel 13 television station or within 129 kilo-meters (80 miles) of a channel 10 tele-vision station or with an antenna height greater than 61 meters (200 feet) must submit an engineering study clearly showing the means of avoiding interference with television reception within the grade B contour. See § 80.215(h).
(2) Additionally, applicants required to submit the above specified must give written notice of the filing of such application(s) to the television stations which may be affected. A list of the no-tified television stations must be sub-mitted with the subject applications. * * * *

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Discussion: This rule also requires a showing of the specified continuity of coverage over the applied-for waterway to be defined by the Applicant: if an inland waterway, it must shown to be navigable since the FCC maintain no list of navigable inland waterways. The Army Corps of Engineers and other governmental authorities in charge of various inland waterways determine navigability of inland waterways and report on actual substantial navigable usage, the measure of navigability warranting grant of AMTS. Such authorities determine that some rivers are navigable in part and not navigable in part. Thus, for this showing, an Applicant must define the navigable waterway: where it start and stops, per such authorities; demonstrate navigable usage thereupon per such authorities; and then show continuity of radio-coverage service thereof by appropriate engineering studies.

Exhibit 5

Lists of licenses held by Warren C. Havens ("Havens")
in AMTS, VPC, LMS, and 220-222 MHz Services
(the lists follow below notes)

---

Telesaurus Holdings LLC
Telesaurus Operating LLC

Ownership, key staff and consultants

Mr. Havens is in the process of setting up Telesaurus Holdings LLC for holding the VPC, LMS, and 220 MHz licenses listed below in his name, and Telesaurus Operating LLC (together herein, "Telesaurus") to manage these assets. Mr. Havens has financial backing from a long-term associate from the cellular industry, Arnold Leong (see below), who will be a non-controlling equity holder in Telesaurus.

Current lead personnel are described below. In addition, ***Jimmy Stobaugh*** serves as Operations Manager and ***Bill Pierce*** as Vice President. Bill has established and managed cellular and other wireless systems in Texas and the Alabama.

***Warren Havens***, of Berkeley, California, has founded, planned, and developed various wireless companies since the late 1980's, including a RSA CellularOne operating company, Highland CellularOne, in which he had substantial interest that he sold in the late 1990's. He has a strong background in all aspects of business development, including research, planning, strategy, marketing, legal, finance, and management. He is also active in philanthropic projects, as personal and business goals, and is an avid cyclist.

***Arnold Leong***, of Reno Nevada (and the Bay Area) and associates owned and operated two cellular companies: TX 16 Rural Service Area as well as an Alabama RSA (approximately 400,000 pops). They sold these last year. Mr. Leong has a wireless industry background similar to Mr. Havens.

Primary consultants:

*Ralph Haller, Gary Stanford, John Thymer*, Fox Ridge Communications, Gettysburg, Pa. Ralph is the principal in Fox Ridge, providing consulting services for wireless licensees and operators including FCC matters (licensing, petitions, rulemaking and other proceedings), systems planning, etc. He is former Chief of the FCC Private Radio Bureau including the years when the rules for the LMS band were developed and adopted. He advises NRG and Telesaurus on a wide range of wireless business, regulatory, and technical matters. Gary and John, also formerly at the FCC in senior positions (engineering), are lead engineers on some of our current projects involving AMTS, VPC, and other matters.

*Andrew Bateman*, Ph.D., Principal at Avren (www.avren.com ) Formerly, Business Development Director, Wireless Systems International, Bristol, England. (www.wsil.com ). Andy provides engineering advice to us in selection of technologies, system planning, and other matters.

*Brian Agee*, Ph.D., San Jose, California. Consultant engineer for our Integrated Transportation Radio Service development project. Brian was lead engineer or substantially involved in various major wireless ventures, including the AT&T "Project Angel."

*Michele Farquhar, Ronnie London* and other attorneys, Hogan & Hartson, Washington DC, Denver, etc. FCC-law and corporate counsel to Telesaurus entities. Hogan & Hatson is a leading international law firm with practices in communications, corporate, M & A, IP, and other areas of law. Before joining this law firm Michele was Chief of the Wireless Telecommunications Bureau at the FCC.

In addition, the above-listed persons have numerous contacts nationwide from their past involvement in cellular and other businesses, including investment banking, engineering, management, and sales, to draw upon as their current enterprises expand.

Automated Marine Telecommunications Service ("AMTS") licenses issued to Warren C. Havens as of 1-1-01

1. Lake Mead, Nevada
2. Great Salt Lake, Utah
3. Carson River, Nevada
4. Verde River, Arizona
5. Salt River, Arizona

**W. Havens, Location and Monitoring Service ("LMS")**
**Granted to Warren C. Havens** As of 1-1-01

| | | |
|---|---|---|
| **West Coast** | **34,036,721** | |
| **Rockies** | **11,282,248** | |
| **East Coast** | **53,524,349** | |
| **Florida & Gulf** | **15,873,915** | |
| **Texas** | **13,412,760** | |
| **"Graceland"** | **6,868,489** | |
| **Great Lakes** | **18,064,423** | |
| **Total** | **153,062,905** | |
| % of US pops | | **60.6%** |
| **Total with Pending*** | **157,952,050** | |
| % of US pops | | **62.5%** |

| | population | |
|---|---|---|
| **West Coast** | | |
| Seattle- Tacoma | 3,445,064 | |
| Portland | 2,310,060 | |
| Eugene | 689,659 | |
| San Fran - N. Cal | 8,033,134 | |
| * *Sacramento* | | *(see Pending)* |
| Fresno | 1,168,970 | |
| Los Angeles | 15,891,818 | |
| San Diego | 2,498,016 | |
| | | 34,036,721 |
| **Rockies** | | |
| Spokane | 691,806 | |
| Boise | 408,246 | |
| Idaho Falls | 263,379 | |
| Twin Falls | 136,831 | |
| Casper | 382,095 | |
| Denver | 3,031,140 | |
| Salt Lake City | 1,635,998 | |
| Reno | 511,004 | |
| Flagstaff | 299,753 | |
| Albuquerque | 762,814 | |
| Phoenix | 2,365,002 | |
| Tucson | 794,180 | |
| | | 11,282,248 |
| **Texas** | | |
| Dallas | 6,180,783 | |
| Houston | 4,567,679 | |
| Austin | 922,307 | |
| San Antonio | 1,741,991 | |
| | | 13,412,760 |

| | population | |
|---|---|---|
| **East Coast** | | |
| Boston | 7,445,016 | |
| New York | 23,919,008 | |
| Philadelphia | 6,915,860 | |
| Washington DC | 7,454,633 | |
| Richmond | 1,247,627 | |
| Raleigh | 1,412,330 | |
| Greensborough | 1,604,323 | |
| Charlotte | 1,626,519 | |
| Columbia | 815,834 | |
| Greenville | 1,083,199 | |
| | | 53,524,349 |
| **Florida & Gulf** | | |
| Savannah | 550,623 | |
| Jacksonville | 1,557,922 | |
| Orlando | 2,836,481 | |
| Miami | 4,538,394 | |
| Ft. Myers | 487,212 | |
| Sarasota | 624,323 | |
| Tallahassee | 610,116 | |
| Montgomery | 440,228 | |
| Mobile | 607,965 | |
| Jackson | 1,328,647 | |
| New Orleans | 1,635,720 | |
| Baton Rouge | 656,284 | |
| | | 15,873,915 |
| **"Graceland"** | | |
| Lexington | 1,731,306 | |
| Nashville | 2,002,283 | |
| Memphis | 1,687,817 | |
| Little Rock | 1,447,083 | |
| | | 6,868,489 |
| **Great Lakes** | | |
| Detroit | 6,626,919 | |
| Chicago | 9,317,947 | |
| Milwaukee | 2,119,557 | |
| * *Minneapolis* | | |
| | | 18,064,423 |
| ***Pending** | (see note 4) | |
| Minneapolis | 3,945,443 | |
| Las Vegas | 943,702 | |
| | | 4,889,145 |

**Notes**

1. Population data per April 1990 U.S. Census, as published in the FCC Auction 21 (LMS) Bidder Information Package 12/15/98 p.16-20) US 1990 population total = 252,556,989
2. All markets named are "Economic Areas" or "EA's" " " " . They form contiguous multi-state regions.
3. In each market, I obtained an "A" block license: 6 MHz total: 904 - 909.750 MHz, and 927.750 - 928 MHz.
4. "Pending" refers to bids we have on markets that may be awarded after the auction since the high bidder, by the rules, can't hold these licenses. We believe we may obtain these as 2nd high bidder.

220-222 MHz licenses of Net Radio Group Communications (nrg) and Warren Havens (wh)
As of 1-1-01

(Mr. Havens provided most of the financing to acquire the licenses listed under "nrg" below, and on a fully-diluted basis has a major interest in NRG (nrg).)

| license | | kHz | market | population | |
|---|---|---|---|---|---|
| **EAG001** | **G** | **150** | **Northeast** | **41,567,654** | ----wh |
| **EAG005** | **F** | **150** | **Central/Mountain** | **40,926,336** | nrg |
| **EAG005** | **G** | **150** | **Central/Mountain** | **40,926,3** | nrg |
| **EAG005** | **H** | **150** | **Central/Mountain** | **40,926,336** | nrg |
| **EAG006** | **G** | **150** | **Pacific** | **41,437,956** | nrg |
| **EAG006** | **H** | **150** | **Pacific** | **41,437,956** | nrg |
| BEA001 | A | 100 | Bangor, ME | 533,135 | ----wh |
| BEA001 | B | 100 | Bangor, ME | 533,135 | ----wh |
| BEA001 | C | 100 | Bangor, ME | 533,135 | ----wh |
| BEA001 | E | 100 | Bangor, ME | 533,135 | ----wh |
| BEA002 | A | 100 | Portland, ME | 694,793 | ----wh |
| BEA004 | A | 100 | Burlington, VT-NY | 568,377 | ----wh |
| BEA004 | B | 100 | Burlington, VT-NY | 568,377 | ----wh |
| BEA004 | D | 100 | Burlington, VT-NY | 568,377 | ----wh |
| BEA006 | C | 100 | Syracuse, NY-PA | 1,934,632 | ----wh |
| BEA006 | D | 100 | Syracuse, NY-PA | 1,934,632 | ----wh |
| BEA009 | C | 100 | State College, PA | 798,826 | ----wh |
| BEA011 | A | 100 | Harrisburg-Lebanon-Carlisle, P | 1,026,459 | ----wh |
| BEA013 | C | 100 | Washington-Baltimore, DC-MD-VA | 7,454,633 | ----wh |
| BEA014 | D | 100 | Salisbury, MD-DE-VA | 290,800 | ----wh |
| BEA016 | A | 100 | Staunton, VA-WV | 301,626 | ----wh |
| BEA016 | C | 100 | Staunton, VA-WV | 301,626 | ----wh |
| BEA045 | E | 100 | Johnson City-Kingsport-Bristol | 524,270 | ----wh |
| BEA053 | A | 100 | Pittsburgh, PA-WV | 3,003,172 | ----wh |
| BEA053 | C | 100 | Pittsburgh, PA-WV | 3,003,172 | ----wh |
| BEA058 | A | 100 | Northern Michigan, MI | 230,066 | ----wh |
| BEA058 | D | 100 | Northern Michigan, MI | 230,066 | ----wh |
| BEA059 | A | 100 | Green Bay, WI-MI | 624,600 | ----wh |
| BEA059 | C | 100 | Green Bay, WI-MI | 624,600 | ----wh |
| BEA060 | A | 100 | Appleton-Oshkosh-Neenah, WI | 380,610 | ----wh |
| BEA061 | A | 100 | Traverse City, MI | 238,720 | ----wh |
| BEA061 | B | 100 | Traverse City, MI | 238,720 | ----wh |
| BEA061 | D | 100 | Traverse City, MI | 238,720 | ----wh |
| BEA063 | B | 100 | Milwaukee-Racine, WI | 2,119,557 | ----wh |
| BEA091 | E | 100 | Fort Smith, AR-OK | 286,113 | ----wh |
| BEA092 | D | 100 | Fayetteville-Springdale-Rogers | 285,955 | ----wh |
| BEA094 | C | 100 | Springfield, MO | 712,422 | ----wh |
| BEA105 | C | 100 | La Crosse, WI-MN | 220,502 | ----wh |
| BEA105 | D | 100 | La Crosse, WI-MN | 220,502 | ----wh |
| BEA108 | A | 100 | Wausau, WI | 451,533 | ----wh |
| BEA108 | B | 100 | Wausau, WI | 451,533 | ----wh |
| BEA109 | A | 100 | Duluth-Superior, MN-WI | 340,675 | ----wh |
| BEA109 | B | 100 | Duluth-Superior, MN-WI | 340,675 | ----wh |
| BEA109 | C | 100 | Duluth-Superior, MN-WI | 340,675 | ----wh |
| BEA109 | D | 100 | Duluth-Superior, MN-WI | 340,675 | ----wh |
| BEA110 | A | 100 | Grand Forks, ND-MN | 240,827 | ----wh |
| BEA110 | B | 100 | Grand Forks, ND-MN | 240,827 | ----wh |
| BEA110 | C | 100 | Grand Forks, ND-MN | 240,827 | ----wh |
| BEA110 | D | 100 | Grand Forks, ND-MN | 240,827 | ----wh |
| BEA110 | E | 100 | Grand Forks, ND-MN | 240,827 | nrg |
| BEA111 | A | 100 | Minot, ND | 116,054 | ----wh |
| BEA111 | B | 100 | Minot, ND | 116,054 | ----wh |
| BEA111 | C | 100 | Minot, ND | 116,054 | ----wh |

| | | | | | |
|---|---|---|---|---|---|
| BEA111 | D | 100 | Minot, ND | 116,054 | ----wh |
| BEA111 | E | 100 | Minot, ND | 116,054 | ----wh |
| BEA112 | A | 100 | Bismarck, ND-MT-SD | 172,204 | ----wh |
| BEA112 | B | 100 | Bismarck, ND-MT-SD | 172,204 | ----wh |
| BEA112 | C | 100 | Bismarck, ND-MT-SD | 172,204 | ----wh |
| BEA112 | D | 100 | Bismarck, ND-MT-SD | 172,204 | ----wh |
| BEA112 | E | 100 | Bismarck, ND-MT-SD | 172,204 | nrg |
| BEA113 | B | 100 | Fargo-Moorhead, ND-MN | 347,670 | ----wh |
| BEA113 | C | 100 | Fargo-Moorhead, ND-MN | 347,670 | ----wh |
| BEA113 | D | 100 | Fargo-Moorhead, ND-MN | 347,670 | ----wh |
| BEA113 | E | 100 | Fargo-Moorhead, ND-MN | 347,670 | nrg |
| BEA114 | C | 100 | Aberdeen, SD | 84,696 | ----wh |
| BEA114 | D | 100 | Aberdeen, SD | 84,696 | ----wh |
| BEA114 | E | 100 | Aberdeen, SD | 84,696 | nrg |
| BEA115 | C | 100 | Rapid City, SD-MT-ND-NE | 199,782 | ----wh |
| BEA115 | D | 100 | Rapid City, SD-MT-ND-NE | 199,782 | ----wh |
| BEA115 | E | 100 | Rapid City, SD-MT-ND-NE | 199,782 | nrg |
| BEA116 | A | 100 | Sioux Falls, SD-IA-MN-NE | 478,307 | nrg |
| BEA116 | B | 100 | Sioux Falls, SD-IA-MN-NE | 478,307 | nrg |
| BEA116 | C | 100 | Sioux Falls, SD-IA-MN-NE | 478,307 | nrg |
| BEA116 | D | 100 | Sioux Falls, SD-IA-MN-NE | 478,307 | nrg |
| BEA116 | E | 100 | Sioux Falls, SD-IA-MN-NE | 478,307 | nrg |
| BEA117 | A | 100 | Sioux City, IA-NE-SD | 239,518 | nrg |
| BEA117 | B | 100 | Sioux City, IA-NE-SD | 239,518 | nrg |
| BEA117 | C | 100 | Sioux City, IA-NE-SD | 239,518 | nrg |
| BEA117 | D | 100 | Sioux City, IA-NE-SD | 239,518 | nrg |
| BEA117 | E | 100 | Sioux City, IA-NE-SD | 239,518 | nrg |
| BEA118 | B | 100 | Omaha, NE-IA-MO | 958,815 | nrg |
| BEA118 | C | 100 | Omaha, NE-IA-MO | 958,815 | nrg |
| BEA118 | D | 100 | Omaha, NE-IA-MO | 958,815 | nrg |
| BEA118 | E | 100 | Omaha, NE-IA-MO | 958,815 | nrg |
| BEA119 | C | 100 | Lincoln, NE | 341,684 | nrg |
| BEA119 | E | 100 | Lincoln, NE | 341,684 | nrg |
| BEA120 | C | 100 | Grand Island, NE | 277,509 | ----wh |
| BEA120 | D | 100 | Grand Island, NE | 277,509 | ----wh |
| BEA120 | E | 100 | Grand Island, NE | 277,509 | nrg |
| BEA121 | C | 100 | North Platte, NE-CO | 60,432 | ----wh |
| BEA121 | D | 100 | North Platte, NE-CO | 60,432 | ----wh |
| BEA121 | E | 100 | North Platte, NE-CO | 60,432 | nrg |
| BEA122 | B | 100 | Wichita, KS-OK | 1,094,213 | nrg |
| BEA122 | C | 100 | Wichita, KS-OK | 1,094,213 | nrg |
| BEA122 | E | 100 | Wichita, KS-OK | 1,094,213 | nrg |
| BEA126 | D | 100 | Western Oklahoma, OK | 144,847 | ----wh |
| BEA129 | E | 100 | San Angelo, TX | 189,093 | ----wh |
| BEA135 | E | 100 | Odessa-Midland, TX | 382,517 | ----wh |
| BEA137 | D | 100 | Lubbock, TX | 357,092 | ----wh |
| BEA138 | C | 100 | Amarillo, TX-NM | 448,258 | ----wh |
| BEA138 | D | 100 | Amarillo, TX-NM | 448,258 | ----wh |
| BEA139 | B | 100 | Santa Fe, NM | 208,689 | nrg |
| BEA139 | C | 100 | Santa Fe, NM | 208,689 | nrg |
| BEA139 | D | 100 | Santa Fe, NM | 208,689 | nrg |
| BEA139 | E | 100 | Santa Fe, NM | 208,689 | nrg |
| BEA140 | A | 100 | Pueblo, CO-NM | 247,124 | nrg |
| BEA140 | B | 100 | Pueblo, CO-NM | 247,124 | nrg |
| BEA140 | C | 100 | Pueblo, CO-NM | 247,124 | nrg |
| BEA140 | D | 100 | Pueblo, CO-NM | 247,124 | nrg |
| BEA140 | E | 100 | Pueblo, CO-NM | 247,124 | nrg |
| BEA141 | C | 100 | Denver-Boulder-Greeley, CO-KS-NE | 3,031,140 | nrg |
| BEA141 | D | 100 | Denver-Boulder-Greeley, CO-KS-NE | 3,031,140 | nrg |
| BEA142 | C | 100 | Scottsbluff, NE-WY | 91,975 | ----wh |
| BEA142 | D | 100 | Scottsbluff, NE-WY | 91,975 | ----wh |

| | | | | | |
|---|---|---|---|---|---|
| BEA142 | E | 100 | Scottsbluff, NE-WY | 91,975 | nrg |
| BEA143 | A | 100 | Casper, WY-ID-UT | 382,095 | nrg |
| BEA143 | B | 100 | Casper, WY-ID-UT | 382,095 | nrg |
| BEA143 | C | 100 | Casper, WY-ID-UT | 382,095 | nrg |
| BEA143 | D | 100 | Casper, WY-ID-UT | 382,095 | nrg |
| BEA143 | E | 100 | Casper, WY-ID-UT | 382,095 | nrg |
| BEA144 | A | 100 | Billings, MT-WY | 362,513 | nrg |
| BEA144 | B | 100 | Billings, MT-WY | 362,513 | nrg |
| BEA144 | C | 100 | Billings, MT-WY | 362,513 | nrg |
| BEA144 | D | 100 | Billings, MT-WY | 362,513 | nrg |
| BEA144 | E | 100 | Billings, MT-WY | 362,513 | nrg |
| BEA145 | A | 100 | Great Falls, MT | 163,284 | nrg |
| BEA145 | B | 100 | Great Falls, MT | 163,284 | nrg |
| BEA145 | C | 100 | Great Falls, MT | 163,284 | nrg |
| BEA145 | D | 100 | Great Falls, MT | 163,284 | nrg |
| BEA145 | E | 100 | Great Falls, MT | 163,284 | nrg |
| BEA146 | A | 100 | Missoula, MT | 333,984 | nrg |
| BEA146 | B | 100 | Missoula, MT | 333,984 | nrg |
| BEA146 | C | 100 | Missoula, MT | 333,984 | nrg |
| BEA146 | D | 100 | Missoula, MT | 333,984 | nrg |
| BEA146 | E | 100 | Missoula, MT | 333,984 | nrg |
| BEA148 | A | 100 | Idaho Falls, ID-WY | 263,379 | nrg |
| BEA148 | B | 100 | Idaho Falls, ID-WY | 263,379 | nrg |
| BEA148 | C | 100 | Idaho Falls, ID-WY | 263,379 | nrg |
| BEA148 | D | 100 | Idaho Falls, ID-WY | 263,379 | nrg |
| BEA148 | E | 100 | Idaho Falls, ID-WY | 263,379 | nrg |
| BEA149 | A | 100 | Twin Falls, ID | 136,831 | nrg |
| BEA149 | B | 100 | Twin Falls, ID | 136,831 | nrg |
| BEA149 | C | 100 | Twin Falls, ID | 136,831 | nrg |
| BEA149 | D | 100 | Twin Falls, ID | 136,831 | nrg |
| BEA149 | E | 100 | Twin Falls, ID | 136,831 | nrg |
| BEA150 | A | 100 | Boise City, ID-OR | 408,246 | nrg |
| BEA150 | B | 100 | Boise City, ID-OR | 408,246 | nrg |
| BEA150 | C | 100 | Boise City, ID-OR | 408,246 | nrg |
| BEA150 | D | 100 | Boise City, ID-OR | 408,246 | nrg |
| BEA150 | E | 100 | Boise City, ID-OR | 408,246 | nrg |
| BEA151 | A | 100 | Reno, NV-CA | 511,004 | nrg |
| BEA151 | B | 100 | Reno, NV-CA | 511,004 | nrg |
| BEA151 | C | 100 | Reno, NV-CA | 511,004 | nrg |
| BEA151 | D | 100 | Reno, NV-CA | 511,004 | nrg |
| BEA152 | A | 100 | Salt Lake City-Ogden, UT-ID | 1,635,998 | nrg |
| BEA152 | B | 100 | Salt Lake City-Ogden, UT-ID | 1,635,998 | nrg |
| BEA152 | D | 100 | Salt Lake City-Ogden, UT-ID | 1,635,998 | nrg |
| BEA152 | E | 100 | Salt Lake City-Ogden, UT-ID | 1,635,998 | nrg |
| BEA153 | C | 100 | Las Vegas, NV-AZ-UT | 943,702 | nrg |
| BEA153 | D | 100 | Las Vegas, NV-AZ-UT | 943,702 | nrg |
| BEA154 | A | 100 | Flagstaff, AZ-UT | 299,753 | nrg |
| BEA154 | B | 100 | Flagstaff, AZ-UT | 299,753 | nrg |
| BEA154 | C | 100 | Flagstaff, AZ-UT | 299,753 | nrg |
| BEA154 | D | 100 | Flagstaff, AZ-UT | 299,753 | nrg |
| BEA154 | E | 100 | Flagstaff, AZ-UT | 299,753 | nrg |
| BEA155 | A | 100 | Farmington, NM-CO | 150,155 | nrg |
| BEA155 | B | 100 | Farmington, NM-CO | 150,155 | nrg |
| BEA155 | C | 100 | Farmington, NM-CO | 150,155 | nrg |
| BEA155 | D | 100 | Farmington, NM-CO | 150,155 | nrg |
| BEA155 | E | 100 | Farmington, NM-CO | 150,155 | nrg |
| BEA156 | A | 100 | Albuquerque, NM-AZ | 762,814 | nrg |
| BEA156 | C | 100 | Albuquerque, NM-AZ | 762,814 | nrg |
| BEA156 | D | 100 | Albuquerque, NM-AZ | 762,814 | nrg |
| BEA156 | E | 100 | Albuquerque, NM-AZ | 762,814 | nrg |
| BEA157 | A | 100 | El Paso, TX-NM | 807,501 | nrg |

| | | | | | |
|---|---|---|---|---|---|
| BEA157 | D | 100 | El Paso, TX-NM | 807,501 | nrg |
| BEA158 | B | 100 | Phoenix-Mesa, AZ-NM | 2,365,002 | nrg |
| BEA158 | C | 100 | Phoenix-Mesa, AZ-NM | 2,365,002 | nrg |
| BEA159 | A | 100 | Tucson, AZ | 794,180 | nrg |
| BEA159 | B | 100 | Tucson, AZ | 794,180 | nrg |
| BEA159 | E | 100 | Tucson, AZ | 794,180 | nrg |
| BEA162 | E | 100 | Fresno, CA | 1,168,970 | nrg |
| BEA164 | D | 100 | Sacramento-Yolo, CA | 1,935,487 | nrg |
| BEA164 | E | 100 | Sacramento-Yolo, CA | 1,935,487 | nrg |
| BEA165 | A | 100 | Redding, CA-OR | 307,572 | nrg |
| BEA165 | B | 100 | Redding, CA-OR | 307,572 | nrg |
| BEA165 | C | 100 | Redding, CA-OR | 307,572 | nrg |
| BEA165 | D | 100 | Redding, CA-OR | 307,572 | nrg |
| BEA165 | E | 100 | Redding, CA-OR | 307,572 | nrg |
| BEA169 | E | 100 | Richland-Kennewick-Pasco, WA | 545,747 | nrg |
| BEA171 | A | 100 | Anchorage, AK | 550,043 | nrg |
| BEA171 | B | 100 | Anchorage, AK | 550,043 | nrg |
| BEA171 | C | 100 | Anchorage, AK | 550,043 | nrg |
| BEA171 | D | 100 | Anchorage, AK | 550,043 | nrg |
| BEA171 | E | 100 | Anchorage, AK | 550,043 | nrg |
| BEA172 | B | 100 | Honolulu, HI | 1,108,229 | nrg |
| BEA172 | C | 100 | Honolulu, HI | 1,108,229 | nrg |
| BEA172 | D | 100 | Honolulu, HI | 1,108,229 | nrg |

**W. Havens (Telesaurus) VPC licenses and channels** / As of 1-1-01 , v. 1.0

**Table 1**
Licenses & classes

| lic., # | lic. class* |
|---|---|
| 27 | INB-1 |
| 28 | IB |
| 29 | IB |
| 30 | IB |
| 33 | INB-1 |
| 34 | INB-1 |
| 37 | INB-1 |
| 39 | INB-1 |
| 41 | INB-1 |
| 42 | INB-1 |
| 31 | INB-2 |
| 32 | INB-2 |
| 35 | INB-2 |
| (see turquoise below) | |

**Table 2**
Channels in license classes:
in channel-# numeric order

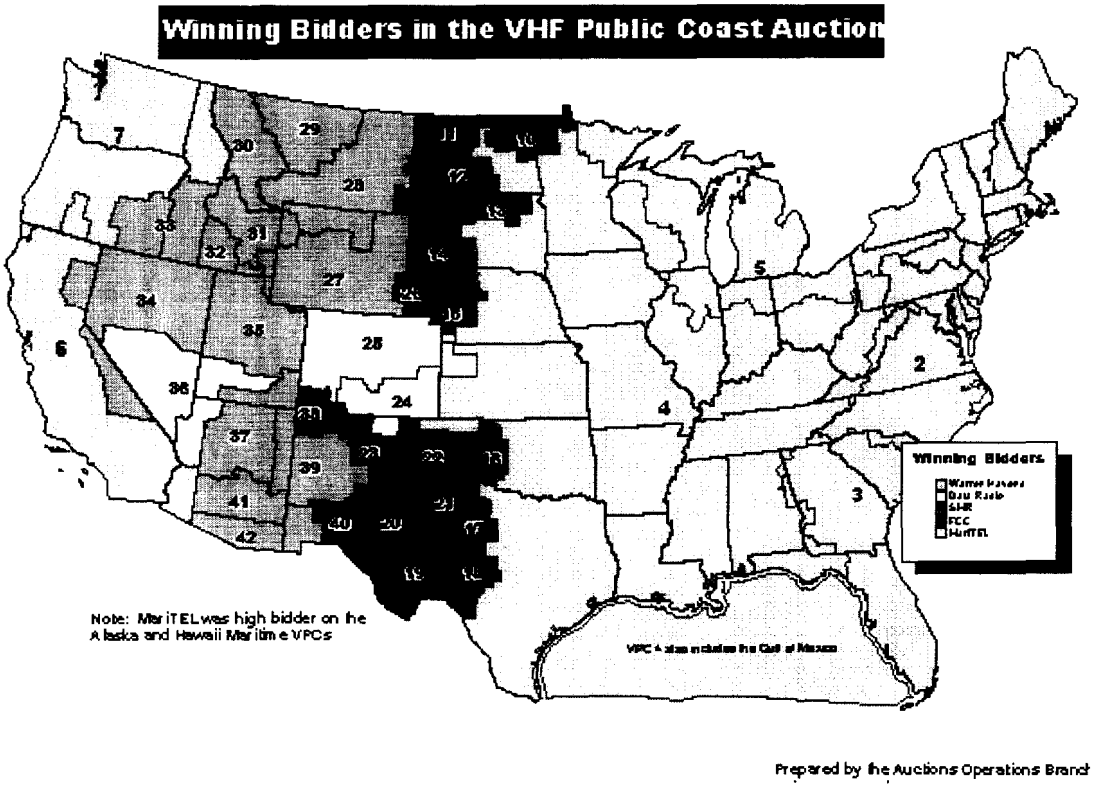
| ch.# | frequencies | |
|---|---|---|
| IB & INB-1 class | | |
| 24 | 157.200 | 161.800 |
| 25 | not | available |
| 26 | 157.300 | 161.900 |
| 27 | 157.350 | 161.950 |
| 28 | 157.400 | 162.000 |
| 84 | 157.225 | 161.825 |
| 86 | 157.325 | 161.925 |
| 87 | 157.375 | 161.975 |
| **INB-2** class | | |
| (only dif. is 84 not 85) | | |
| 24 | 157.200 | 161.800 |
| 25 | not | available |
| 26 | 157.300 | 161.900 |
| 27 | 157.350 | 161.950 |
| 28 | 157.400 | 162.000 |
| 84 | 157.225 | 161.825 |
| 86 | 157.325 | 161.925 |
| 87 | 157.375 | 161.975 |

**Table 3**
Channels in all 3 classes:
in order of frequency

| ch.# | frequencies | | note |
|---|---|---|---|
| 24 | 157.200 | 161.800 | *25 kHz* |
| 84 | 157.225 | 161.825 | *between* |
| 25 | not | available | *channels* |
| 85 | 157.275 | 161.875 | |
| 26 | 157.300 | 161.900 | |
| 86 | 157.325 | 161.925 | |
| 27 | 157.350 | 161.950 | |
| 87 | 157.375 | 161.975 | |

*** Notes**

- **IB** = Inland Border VPC license class
  -- see map: along Canadian border
- **INB-1** = Inland Non-Border " "
- **INB-2** = " " , but ch. 84, not 85
- All data from FCC website, 8-4-99
  (see http://www.fcc.gov/wtb/auctions/ )
- I am currently negotiating for Denver 25, Pueblo 24, L. Vegas, 36) (in **yellow**)
- Next auction I will bid for most in **blue**.




Inset picture: set MS Word to "View/ Page Layout" and "Tools/ Options/ Show drawings.
Note: we have not yet prepared a map for the 904-910 MHz LMS, and the 220-222 MHz and, but these cover, respectively, most all of the US, and the Western 60% of the US. - WH

Certificate of Service

I, Kristin Day, an employee of Hogan & Hartson, certify that I have, on this 8th day of January 2001, caused to be delivered a copy of the foregoing Petition for Reconsideration or Waiver to the following, by hand delivery to the Office of the Secretary, and by US mail to others listed below:

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